

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment and Affidavit under Rule 1.131 filed 14 December 2007. Claims 1, 2, 8 and 55 have been amended. Claims 31-54 have been previously withdrawn. Claims 4-6, 10-15, 18-30, 56-58 have been previously cancelled. Claims 59-64 have been newly added. Claims 1-3, 7-9, 16-17, 55, and 59-64 and withdrawn claims 31-54 are currently pending.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Geoffrey T. Staniford on March 12, 2008.

The application has been amended as follows:

Please cancel withdrawn claims 31-54.

37 CFR 1.131 Affidavit

3. Applicant has submitted an affidavit to remove the Boyden article, "The appropriate use of financial incentives to encourage preventive care in general practice," May 2000. URL:

<<http://www.buseco.monash.edu.au/centres/che/pubs/rr18.pdf>>, hereinafter known as Boyden, as a reference applied under 35 U.S.C. § 103(a) in the previous Office Action. The affidavit filed on 14 December 2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the Boyden reference for the following reasons:

4. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Boyden reference to either a constructive reduction to practice or an actual reduction to practice. Although Applicant's declarations establish that Applicant conceived of the claimed invention prior to the date of the Boyden reference, Applicant's declarations failed to disclose any evidence that Applicant was diligent from a date just prior to the date of the Boyden reference to either a constructive reduction to practice or an actual reduction to practice. Such evidence must show that the Applicant was diligent for the entire period during which diligence is required. A gap of accounting for even two or three days during this period could be construed as failing to establish due diligence. Since no evidence was presented that Applicant was continuously diligent, Applicant has failed to establish diligence and the declaration submitted by Applicant is insufficient to overcome the Boyden reference.

Claim Rejections - 35 USC § 112

5. The rejections of claims 1-3, 7-9, 16-17, and 55 under 35 U.S.C. 112, first paragraph, for introducing new matter are hereby withdrawn due to the amendment filed 14 December 2007.

Allowable Subject Matter

6. Claims 1-3, 7-9, 16-17, 55, and 59-64 are allowed. The following is an examiner's statement of reasons for allowance:

Claims 1-3, 7-9, 16-17, 55, and 59-64 are directed to a method for calculating a cost savings resulting from an episode of care delivered by a healthcare provider, then determining a monetary incentive based on the cost savings, and distributing portions of the incentive to three independent entities: the provider, the payer, and the administrator.

The closest prior art of record, Kessler et al., U.S. Patent Number 5, 324, 077 and Bitran, et al, Provider Incentives and Productive Efficiency in Government Health Services document, September, 1992. URL: <<http://www.phrplus.org/Pubs/hfsmar1.pdf>>, hereinafter known as Bitran, disclose calculating cost savings from an episode of care and allocating financial incentives to the healthcare provider, and suggest allocating incentives to an administrator, however do not disclose or fairly suggest apportioning the cost savings that were caused directly by the healthcare provider to three independent entities: the provider, the payer, and the administrator.

7. Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement for Reasons for Allowance."

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.
9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NAP/

Examiner, Art Unit 3626

March 12, 2008

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626